



INTERNATIONAL
OIL POLLUTION
COMPENSATION
FUND 1971

FONDS INTERNATIONAL
D'INDEMNISATION DE 1971
POUR LES DOMMAGES DUS À
LA POLLUTION PAR LES
HYDROCARBURES

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**PRESS STATEMENT
"SEA EMPRESS"
20 OCTOBER 2003**

Out-of-court settlement of recourse action taken by the International Oil Pollution Compensation Fund 1971 against the Milford Haven Port Authority in relation to the "SEA EMPRESS" incident.

In February 2002 the International Oil Pollution Compensation Fund 1971 and the shipowner's insurer, Assuranceforeningen Skuld (Skuld), commenced recourse action against the Milford Haven Port Authority (MHPA) to recover the amounts they had paid in compensation to victims of oil pollution damage resulting from the "SEA EMPRESS" incident. An out-of-court settlement has been agreed, under which MHPA will pay £20 million to the Fund in full and final settlement of all aspects of the recourse action.

The "SEA EMPRESS" grounded off Milford Haven in February 1996, spilling some 72 000 tonnes of crude oil and causing widespread pollution at sea and along the adjacent shoreline.

The Fund is an intergovernmental organisation set up to pay compensation to the victims of oil pollution. The Fund has, together with Skuld, paid substantial compensation to some 800 claimants. The total amount of compensation paid to the victims of the incident is £36.8 million, of which the Fund paid £29.9 million and Skuld £6.9 million. Of this amount, £23.3 million has been paid to bodies involved in the clean-up operations, around £10 million to fishermen and others in the fishing industry for loss of earnings and £2.3 million to businesses in the tourism industry affected by the pollution, for example, owners of hotels, camping sites, caravan parks, pubs and restaurants. There are no claims outstanding.

The Governments of the Fund Member States have taken a policy decision that the Fund should, in respect of any oil pollution incident, endeavour to recover the amounts it has paid in compensation for pollution damage from any person whose fault caused the pollution.

After thorough investigations, the Fund considered that the oil spill was the fault of MHPA. The Fund and Skuld issued proceedings in the Admiralty Court in London against MHPA, in which they sought to recover the compensation they had paid to the victims of the incident, together with interest and costs

The Fund and Skuld maintained that MHPA had failed to take reasonable care to avoid the risk of a laden tanker grounding and causing serious oil pollution. The Fund and Skuld also alleged that MHPA was negligent in that it had failed properly to monitor vessel entry and to have in place effective radar, that its system of pilot allocation and training was defective and that its response to the grounding was negligent. MHPA strongly rebutted the allegations and denied any liability for the incident.

The trial, which was estimated to last eight weeks, was due to begin in June 2004.

The Fund, Skuld and MHPA agreed with a proposal by the Court that the parties should seek settlement through mediation, thereby avoiding protracted and costly legal proceedings. Following a successful mediation, which was held over two days in October 2003, it was agreed that MHPA would pay £20 million to the Fund in full and final settlement of all claims in the recourse action. The agreement was approved by the Fund's Administrative Council on 20 October 2003.

Notes for Editors:

- 1) The shipowner's Protection and Indemnity insurer who has paid compensation is Assuranceforeningen Skuld (Gjensidig) – known as “Skuld” for short.
- 2) The international regime for compensation of victims of oil pollution damage which applied at the time of the incident is based on two international Conventions, the International Convention on Civil Liability for Oil Pollution Damage, 1969 (“1969 Civil Liability Convention”) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (“1971 Fund Convention”). Both Conventions are incorporated into United Kingdom law by the Merchant Shipping Act 1995.
- 3) The 1969 Civil Liability Convention and the 1971 Fund Convention were established with the aim of ensuring prompt payment of compensation after an oil spill without the need for victims to prove any negligence.
- 4) The 1969 Civil Liability Convention therefore imposes strict liability (liability without fault) for pollution damage upon the shipowner and requires him to insure against that liability. The shipowner is normally entitled to limit his liability to an amount calculated by reference to the tonnage of his ship. In practice (as in this case), the compensation is usually paid by the shipowner’s protection and indemnity insurer.
- 5) The International Oil Pollution Compensation Fund 1971 was established under the 1971 Fund Convention. The Fund is an intergovernmental organisation set up by States. The Fund's purpose is to provide supplementary compensation in cases where the amount payable by the shipowner or his insurer is insufficient to provide full compensation to the victims of oil pollution damage.
- 6) The Fund is funded by contributions from receivers of crude oil or heavy fuel oil after sea transport.
- 7) The 1971 Fund Convention ceased to be in force on 24 May 2002 and does not apply to incidents occurring after that date.
- 8) The 1969 Civil Liability Convention and the 1971 Fund Convention have been replaced by two corresponding Conventions adopted in 1992.